

Application No.: 10/015,436

Docket No.: 64392-0080

REMARKS

Applicants have carefully reviewed the Office action mailed October 3, 2003 (paper no. 6) and thank Examiner Tran for his detailed review of the pending claims. Claims 1-15, 19 and 21 were rejected in the Office action. In response to the Office action, claims 1 and 21 have been amended and claim 2 has been canceled. In the course of amending the claims, no new matter has been added. Accordingly, in view of the amendments, claims 1-15, 19 and 21 remain pending in this application. Applicants respectfully request reconsideration of the present application in view of the above amendments and the following remarks.

I. Election/Restrictions

Applicants accept Examiner Tran's withdrawal of claims 16-18, 20, and 22-28 as being drawn to the nonelected Group and Species.

II. Claim Rejections Under 35 U.S.C. §112

Claims 2, 7, 8, 9, and 10-15 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 2, 7, 8, 9, 10, 12-14, the Office action states that the recitation of "or" renders the claims indefinite because it is unclear which one of the two nonequivalent alternatives the applicants are positively setting forth. With respect to claim 11, the Office action states that it is unclear what constitutes "hardware." The Applicants respectfully traverse the rejections of the claims.

Regarding the recitation of "or" in claims 2, 7-10 and 12-14, MPEP 2173.05(i) states in relevant part "Alternative expressions using "or" are acceptable, such as "wherein R is A, B, C, or D"." Further, an applicant has a right to define what he regards as his invention as he chooses, so long as his definition is reasonably distinct, as required by 35 U.S.C. §112, second paragraph, and supported by an enabling disclosure, as required by the first paragraph of 35 U.S.C. §112. See *In re Harnisch*, 631 F.2d 716, 206 USPQ 300 (CCPA 1980). The mere use of an alternative expression in a claim does not necessarily render a claim indefinite. See *Ex parte Ohsumi*, 21 USPQ2d 1020 (Bd.App. 1991).

Pending claims 7-10 and 12-14 disclose features of the subject invention using the acceptable alternative expression "or". Claim 2 has been cancelled, but the features of the

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subject invention using the acceptable alternative expression has been added to independent claim 1. The Office action states that the use of "or" renders the claim unclear as to which one of the two nonequivalent alternatives the applicants are positively set forth. Permissible use of the term "or" does not require that the alternatives be equivalent. By way of example, see *In re Gaubert*, 524 F.2d 1222, 187 USPQ 663 (CCPA 1975), where the phrase "made entirely or in part of" was found definite and acceptable. Accordingly, use of the alternative expression "or" in amended claim 1 and original claims 7-10 and 12-14 is definite under 35 U.S.C. §112, second paragraph. For at least this reason the Applicants respectfully request withdrawal of the rejection.

With respect to claim 11, the Office action states that it is unclear what constitutes "hardware." The Applicants respectfully traverse the rejection and direct the Examiner's attention to paragraph [0022] of the specification. According to MPEP 2173.05(a) "The meaning of every term used in a claim should be apparent from the prior art or from the specification and drawings at the time the application is filed." Paragraph [0022] of the specification gives meaning to the term "hardware", as used in the claims, by providing a list of examples. While the examples are not meant to limit the term "hardware", the examples do give meaning to the term "hardware". Therefore the claim is definite and the Applicants respectfully request withdrawal of the rejection.

III. Claim Rejections Under 35 U.S.C. §103

1) Claims 1-15, 19 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hellenkamp et al. (U.S. Patent No. 5,822,927) in view of Presto (U.S. Patent No. 4,328,642). The Office action states that Hellenkamp discloses a vehicle double-walled panel with an inner support structure. The Office action further states that Presto teaches the door being made of plastic and that it would have been obvious to one skilled in the art to combine the teachings of Hellenkamp with the teachings of Presto to result in a lightweight, plastic door. The Applicants respectfully traverse the rejection.

In order to sustain a case of *prima facia* obviousness, the cited references must teach or suggest each limitation of the claims. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In view of the amendments to independent claims 1 and 21 the Hellenkamp patent in

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combination with the Presto patent fail to teach or suggest each limitation of the claimed invention. Specifically, the patents fail to disclose, *inter alia*, the claimed feature of a plastic support structure formed integrally with one of the inner or outer panels. Instead, Hellenkamp teaches an outer panel 26 having two sheets 27, 29 secured to each other by longitudinally oriented partitions 36. The partitions 36 are integrally formed with each of the two sheets 27, 29. (See Column 5, lines 30-32.) The partitions 36 of Hellenkamp are integral with both of the sheets 27, 29 because of strength and rigidity requirements of the door. Meanwhile, the claimed invention has the plastic support structure integrally formed with only one of the inner or outer panels. The opposite panel is merely decorative and not required for strength or rigidity requirements of the door. Further, Presto fails to fulfill the deficiencies of Hellenkamp. The support structure in Presto is simply a metal beam 28 and is not integral with either of the inner or outer panels 12, 14 of Presto. Accordingly, for at least this reason, independent claims 1 and 21 are patentable.

Additionally, claims 2-15 and 19 are dependent claims adding additional features to the patentable independent claim. For at least this reason they are also patentable.

Further, to establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). There is no motivation or suggestion to combine the Hellenkamp and Presto patents to result in the claimed invention. Hellenkamp teaches a door having panels and support partitions made of an aluminum alloy. Meanwhile, Presto teaches a door comprising outer and inner panels of plastic with a metal door frame therebetween. There is no suggestion or motivation to combine Hellenkamp and Presto to produce the claimed invention having a plastic support structure integrally formed with one of the inner or outer panels. Presto even teaches away from developing an all plastic door suggesting the structure would lack sufficient rigidity. (See Column 1, lines 7-8.) Accordingly, for at least this reason claims 1-15, 19 and 21 are patentable.

2) Claims 1, 6-15 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Meinke (U.S. Patent No. 6,431,630) in view of Seksaria et al. (U.S. Patent No. 5,944,373). The Office action states that the Meinke patent discloses a tailgate door having inner and outer panels defining a compartment therebetween to retain hardware such as a latch. Further, the Office

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action states that Seksaria teaches an inner support structure between the panels. The Office action states it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the tailgate door of Meinke with the inner support structure of Seksaria. Applicants respectfully traverse the rejection.

In order to sustain a case of *prima facia* obviousness, the cited references must teach or suggest each limitation of the claims. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In view of the amendment to independent claim 1, the references fail to disclose, teach or suggest each limitation. Specifically, the feature of the plastic support structure integrally formed with one of the inner or outer panels is not taught in the references. For at least this reason, independent claim 1 is patentable. Further, claims 6-15 and 19 are dependent claims adding additional features to the patentable independent claim. For at least this reason they are also patentable.

As noted above, to establish a case of *prima facia* obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). There is no suggestion or motivation to combine the Meinke and Seksaria patents to result in the claimed invention. The Office action notes that the Meinke and Seksaria patents fail to disclose outer and inner panels made of plastic and takes Official Notice that plastic is notoriously old and well-known to make structures that are lightweight. However, the cited references, specifically Seksaria teach against developing a structural panel having a plastic support structure integrally formed with one of the plastic inner or outer panels. Seksaria discloses that vehicle body panels made from plastic generally provide reduced strength and rigidity. (See Column 1, lines 39-42.) In contrast, the claimed invention having the plastic support structure integrally formed with one of the plastic inner or outer panels overcomes the deficiencies described in the prior art. Accordingly, for at least this reason claims 1, 6-15 and 19 are patentable.

3) Claims 2-5, and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Meinke in view of Seksaria et al. as applied to claims 1, 6-15, and 19 above, and in further view of Fedrigo (U.S. Patent No. 4,743,058). The Office action states that the Fedrigo patent teaches a tailgate door panel having integrally formed inner support structures. Applicants respectfully traverse the rejection.

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As argued above, independent claim 1 is patentable because there is no suggestion or motivation to combine the Meinke and Seksaria patents and, as noted in the Office action, the Meinke and Seksaria patents fail to disclose, teach or suggest a support structure integrally formed with the inner or outer panel. Claim 2 has been cancelled, but the patentable feature has been added to independent claim 1. Claims 3-5 are dependent claims adding patentable features to the disclosure of independent claim 1. For at least this reason claims 3-5 are patentable.

Further, there is no motivation or suggestion to combine the disclosure of Fedrigo with the disclosures of Meinke and Seksaria. The tailgate disclosed in Fedrigo is made of rectangular steel tubing. (See Column 3, lines 60-61.) Nothing in Fedrigo motivates or suggests developing a structural panel having a plastic support structure between plastic inner and outer panels and integrally formed therewith. Accordingly, for at least this reason the claims 3-5 and independent claim 21 are patentable. The Applicants respectfully request withdrawal of the rejection.

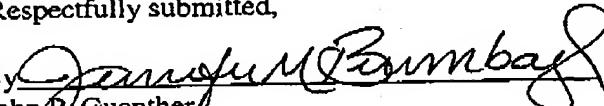
CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 64392-0080 from which the undersigned is authorized to draw.

Respectfully submitted,

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